

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

and

HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

W.P.NO.352 OF 2006

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Between:

Visakha Society for Prevention of Cruelty to animals

(Regd) having its registered office at

26-15-200, Main Road, Visakhapatnam

rep by its President Mr.Pradeep Kumar Nath,

S/o Sri Lal Mohan.

..... Petitioner

AND

Municipal Corporation of Visakhapatnam

represented by its Commissioner,

Visakhapatnam.

.....Respondent

::JUDGMENT::

Counsel for the Petitioner : Smt.Jayasree Sarathy

Counsel for Respondent : Sri N.Ranga Reddy, standing counsel

Dated 2.3.2006

Per Sri G.S.Singhvi, CJ

In this petition, Visakha Society for Prevention of Cruelty to animals, Visakhapatnam has prayed for issuance of a direction to the respondent to abide by order dated 20.12.2004 passed by this Court in Writ Petition No.20693 of 2004 and the provisions contained in the Animal Birth Control (Dogs) Rules, 2001.

On the previous date of hearing i.e. 15.2.2006, the Court had, after hearing the learned counsel for the parties, passed the following order.

“ Heard learned counsel for the parties and perused the record.

While the petitioner has alleged that the functionaries of Municipal Corporation, Visakhapatnam are resorting to killing of the dogs in violation of the mandate of Animal Birth Control (Dogs) Rules, 2001 (for short ‘the Rules’), Sri N.Srikanth, Commissioner, Municipal Corporation of Vizag has, in the counter affidavit, denied the allegation.

We have gone through the affidavit of Sri N.Srikanth, which, in our opinion, is vague to the core and evasive to the extreme. Prima facie, we are satisfied that the authorities of the Municipal Corporation are not complying with the mandate of the Rules and also violating the undertaking given before the Court in WP No.20693 of 2004.

However, before taking cognizance of the violation of the undertaking given before the Court, which would lead to initiation of proceedings under the Contempt of Courts Act 1971, we deem it proper to give another opportunity to the Officer concerned to come clean abreast and make a categorical statement on the issue of compliance of 2001 Rules in letter and spirit.

Let the officer concerned viz., Sri N.Srikanth, Commissioner, Municipal Corporation, Visakhapatnam file an appropriate affidavit within a period of two weeks from today.

Put up on 2.3.2006.”

In compliance of the direction contained in the aforementioned order, Sri N.Srikanth, S/o N.Appa Rao, Commissioner, Greater Visakhapatnam Municipal Corporation, Visakhapatnam has filed affidavit dated 27.2.2006. Paragraphs 2 to 6 of the affidavit read as under:

“2. The Respondent respectfully and sincerely submits that the observations of the Hon’ble High Court in their order dt.15.2.2006 passing on the W.P.No.352 of 2006 have been carefully noted and solemnly assured that I will follow the Animal Birth Control (Dogs) Rules 2001. The respondent corporation has highest respect and regard to the Hon’ble Court Orders and do not have any intention to disobey the orders. On contra whenever the respondent corporation received the orders of court and will immediately implement the same.

3 .The respondent respectfully submits that the Greater Visakhapatnam Municipal Corporation has been implementing the Animal Birth Control Programme in stray dogs since 2001. As per the M.O.U the criterion for evaluating the success of the programme should be based on reduction in stray dogs bitten cases, incidence of Rabies cases, and number of public complaints on stray dog menace. There is alarming increase of Rabies deaths, Dog bite cases, accidents, number of persons vaccinated against Rabies in general hospitals and the number of Rabies cases admitted in the infectious disease hospital.

4. The respondent respectfully submits that the group of stray dogs are conspicuously seen everywhere in the growing city creating panic and fear among public. There is impending danger particularly to the school going children, women and aged people. Recently, one year old child was seized by a ferocious dog and the child sustained severe injury to the right eye. On 4.3.2001 a women of 50 old died hydrophobia. Several Rabies deaths have been recorded from Arilova, M.V.P. Colony, Kancharapalem, Chinagadili, Jalaripeta, Gopalapatnam etc. The Corporation is receiving number of complaints every day from the public demanding action to control the menace of stray dogs and to protect them. The number of complaints on stray dog menace raised from 323 in 2001 to 876 in 2005-2006 during the current year upto 15th February, 2006. Twenty Six emergency complaints about elimination of mad dogs (Rabies effected) are being received through Call Center from 01.01.2006 to 15.02.2006 which are to be redressed within 24 hours as per the Citizen charter. On the other hand the Press with their reports raise accusing finger on the Corporation failing to render proper protection to the Public despite such devastation. Besides the frenzy public and Press, associations like Human Rights Council, Forum of Legal Professions are referring to such incidents demanding the Corporation for payment of compensation to the victims.

5. The respondent respectfully submits that the corporation engaged private contractors for catching the Rabies, ferocious, grievously injured, and dogs with incurable diseases and transport to hospitals and the dogs will be sterilized/vaccinated under the supervision of the veterinary doctors, just to ameliorate the sufferings of the public. The allegations that the respondent using poisonous chemicals for killing dogs is totally incorrect. The petitioner members have lodged false complaint against the monkey catcher Sri D. Nageshwara Rao with the city police in January 2006 with the

allegation of killing dogs. Police have enquired the allegations.

6. The respondents respectfully submits that the dog catchers are engaged only to catch dogs which are dangerous to the public at large. The services of the petitioner are also not available for entire city covering 530 Sq.Km. during the night times and early hours. The petitioners are not cooperating with the corporation authorities for the catching of rabid dogs and also in controlling ferocious dogs and grievously injured dogs. Hence the respondents are catching the dogs and transporting to hospitals and the dogs are firm sterilized/vaccinated under the supervision of the veterinary doctors. Regarding implementation in Greater Visakhapatnam there is no such M.O.U between the petitioner and the respondent. The respondents are also bound by the HMC Act which mandates removal of any threat to public life and safety.”

In view of the unequivocal undertaking given by the Commissioner, Greater Visakhapatnam Municipal Corporation, Visakhapatnam that the Municipal Corporation authorities will strictly abide by the Animal Birth Control (Dogs) Rules 2001 and that the dogs will not be killed by administering poisonous injections, we deem it proper to dispose of the writ petition as infructuous with liberty to the petitioner to file a miscellaneous petition for issuance of further directions, if any such contingency arises. Ordered accordingly.

As a sequel to the disposal of the writ petition, the miscellaneous petition is disposed of.

G.S.SINGHVI, CJ

Dt.2.3.2006

G.BHAVANI PRASAD,J

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